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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/649,127	08/27/2003	Edward N. Barthell	144.005	4764

23598 7590 03/11/2011
BOYLE FREDRICKSON S.C.
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EXAMINER

RANGREJ, SHEETAL

ART UNIT	PAPER NUMBER
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3686

NOTIFICATION DATE	DELIVERY MODE
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03/11/2011

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docketing@boylefred.com

Office Action Summary	Application No.		Applicant(s)	
	10/649,127		BARTHELL, EDWARD N.	
	Examiner		Art Unit	
	SHEETAL R. RANGREJ		3686	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 December 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Prosecution History Summary

1. Claims 24-26 are withdrawn.
2. Claims 1-23 are pending.

Response to Amendment

1. Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-23 are rejected under 35 U.S.C. 102(b) as being anticipated by Sloane (U.S. Patent No. 5,911,132).

4. As per claim 1, Sloane teaches the method of detecting a bio-emergency:
 - a. Receiving patient health information at a plurality of health care facilities, the information being received at each facility via a user interface executed on at least one computer (**Sloane: col. 2, 64 to col. 3, 16; col. 3, 31-35; col. 4, 5-29**);
 - b. Transmitting, simultaneously with said receiving step, the patient health information to a monitoring computer within a bio-surveillance network (**Sloane: col. 4, 30-53; col. 5, 38-54**);

- c. Compiling the patient health information on the monitoring computer to create compiled health data (**Sloane: col. 4, 54-60; col. 5, 11-19**).
5. As per claim 2, the method of claim 1 is as described above. Sloane further teaches wherein the bio-surveillance network includes at least one regional repository that communicates directly with at least one of the health care facilities (**Sloane: col. 2, 64 to col. 3, 16; col. 4, 42-43**).
6. As per claim 3, the method of claim 2 is as described above. Sloane further teaches wherein the regional repository is a regional health department (**Sloane: col. 2, 64 to col. 3, 16**).
7. As per claim 4, the method of claim 2 is as described above. Sloane further teaches wherein the at least one regional repository includes a plurality of regional repositories (**col. 2, 64 to col. 3, 16; figure 1**).
8. As per claim 5, the method of claim 4 is as described above. Sloane further teaches wherein said compiling step is performed at the regional repositories (**Sloane: col. 4, 54-60; col. 5, 11-19**).
9. As per claim 6, the method of claim 5 is as described above. Sloane further teaches communicating the compiled health data to at least one group including the regional repositories and a centralized recipient (**Sloane: col. 5, 38-54**).
10. As per claim 7, the method of claim 5 is as described above. Sloane further teaches the bio-surveillance network includes a centralized recipient that receives the compiled health care data from at least one of the regional repositories (**Sloane: col. 7, 38-54**).
11. As per claim 8, the method of claim 7 is as described above. Sloane further teaches comparing the compiled health data to a threshold (**Sloane: col. 4, 54-64**).

12. As per claim 9, the method of claim 8 is as described above. Sloane further teaches generating a warning signal in response to said comparing step (**Sloane: col. 4, 54 to col. 5, 10**).

13. As per claim 10, the method of claim 9 is as described above. Sloane further teaches communicating the warning signal to at least one of a group including the health care facilities (**Sloane: col. 4, 54 to col. 5, 10**).

14. As per claim 11, the method of claim 10 is as described above. Sloane further teaches communicating the warning signal is performed automatically in response to said comparing step (**Sloane: col. 4, 54 to col. 5, 10**).

15. As per claim 12, the method of claim 7 is as described above. Sloane further teaches the centralized recipient is the Centers for Disease Control (**Sloane: col. 3, 17-22**).

16. As per claim 13, the method of claim 1 is as described above. Reference A further teaches wherein the patient health information includes triage information (**Sloane: col. 4, 54 to col. 5, 10**).

17. As per claim 14, the method of claim 13 is as described above. Sloane further teaches wherein the triage information includes symptom information (**Sloane: col. 4, 54 to col. 5, 10**).

18. As per claim 15, the method of claim 14 is as described above. Sloane further teaches the triage information includes a primary complaint (**Sloane: col. 4, 54 to col. 5, 10; figure 2**).

19. As per claim 16, the method of claim 15 is as described above. Sloane further teaches the triage information includes a secondary complaint (**Sloane: col. 4, 54 to col. 5, 10; figure 2**).

20. As per claim 17, the method of claim 14 is as described above. Reference A further teaches categorizing the symptom information (**Sloane: col. 5, 38-54**). In light of the

specification, Examiner interprets categorizing the symptom information to be the same as providing diagnosis.

21. As per claim 18, the method of claim 1 is as described above. Sloane further teaches categorizing step includes generating syndromic data (**Sloane: col. 7, 36-56**).

22. As per claim 19, the method of claim 1 is as described above. Sloane further teaches said receiving step is performed using proprietary software (**Sloane: col. 2, 64 to col. 3, 16; col. 3, 31-35; col. 4, 5-29**).

23. As per claim 20, the method of claim 1 is as described above. Sloane further teaches wherein said transmitting step is implemented via the Internet (**Sloane: col. 2, 64 to col. 3, 16; col. 3, 31-35; col. 4, 5-29**).

24. As per claim 21, Sloane teaches a method of detecting a bio-emergency:

a. Receiving individual triage patient health information at a plurality of health care facilities from each of a plurality of patients (**Sloane: col. 2, 67 to col. 3, 16; col. 3, 40-49; col. 3, 50-64**);

b. On a patient-by-patient basis, electronically recording triage data for that patient in a computer of the associated health care facility, the triage data for each patient containing at least some of the received health information for that patient (**Sloane: figure 2; figure 4**);

c. Upon recording the triage data for each patient, transmitting at least a portion of the recorded triage data to a computer for one of a plurality of regional repositories automatically and in at least near real-time, the computer for each of the regional

repositories receiving triage data from a computer for each of a plurality of the health care facilities (**Sloane: col. 4, 5-30**);

d. Transmitting triage data to a computer for a centralized recipient from the computers for regional repositories automatically and in at least near real time with its receipt from the computers for the health care facilities (**Sloane: col. 5, 38-54**);

e. Analyzing the triage data and determining, based on the analysis, whether a possible bio-emergency exists (**Sloane: col. 5, 38-54**);

f. Communicating, from the centralized recipient, information regarding the possible bio-emergency to at least one or more of the regional repositories, one or more health care facilities, and other institutions having an interest in responding to a possible bio-emergency (**Sloane: col. 5, 38-54; col. 8, 1-37**).

25. As per claim 22, the method of claim 21 is as described above. Sloane further teaches:

a. Compiling the triage data for individual patients to generate volumetric triage data (**Sloane: col. 7, 42 to col. 8, 20**);

b. Comparing the volumetric triage data with a predetermined threshold; and transmitting a warning in response to said comparing step (**Sloane: col. 7, 42 to col. 8, 20**).

26. As per claim 23, the method of claim 22 is as described above. Sloane further teaches compiling step is performed by the computer for the regional repositories; and the comparing step is performed by the computer for the centralized recipient (**Sloane: col. 7, 42 to col. 8, 20**).

Response to Arguments

3. Applicant's arguments with respect to claims 1-23 have been considered but are moot in view of the new ground(s) of rejection.

4. The remarks filed on 11/09/2010 under 37 CFR 1.131 is sufficient to overcome the Epler et al. (U.S. Publication No. 2003/0187615) reference.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SHEETAL R. RANGREJ whose telephone number is (571)270-1368. The examiner can normally be reached on M-F 8:30-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry O'Connor can be reached on 571-272-6787. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Sheetal R. Rangrej/
Examiner, Art Unit 3686